

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

BRIAN WOODS,

Plaintiff,

vs.

JDHQ HOTELS LLC and ATRIUM
HOSPITALITY LP,

Defendants.

4:23-CV-04026-RAL

**DEFENDANTS JDHQ HOTELS LLC
AND ATRIUM HOSPITALITY, LP,
ANSWER TO COMPLAINT**

COME NOW the Defendants, JDHQ HOTELS LLC, and ATRIUM HOSPITALITY, LP, by and through their counsel of record, and for their Answer to Plaintiff's Complaint admits, denies and alleges as follows:

PARTIES

1. Defendants admit paragraph one.
2. Defendants admit paragraph two.
3. Defendants admit paragraph three.

JURISDICTION AND VENUE

4. Defendants admit paragraph four to the extent it alleges the diversity of the parties, but denies Plaintiff's damages exceed \$75,000.00.
5. Defendants state paragraph five alleges conclusions of law to which no answer is required.

FACTS

6. Defendants admit paragraph six.

7. Defendants deny paragraph seven.

8. Defendants deny paragraph eight.

9. Defendants deny paragraph nine.

10. Defendants deny paragraph ten.

11. Defendants deny paragraph 11.

12. Defendants deny paragraph 12.

COUNT 1
Premises Liability

13. Defendants deny paragraph 13 except for those allegations hereinbefore admitted, or those allegations which constitute admissions against the interest of the Plaintiff..

14. Defendants deny paragraph 14.

15. Defendants deny paragraph 15.

16. Defendants deny paragraph 16.

17. Defendants deny paragraph 17

18. Defendants deny paragraph 18.

19. Defendants deny paragraph 19.

COUNT II
Negligence

20. Defendants deny paragraph 20 except for those allegations hereinbefore admitted, ot those allegations which constitute admissions against the interest of the Plaintiff.

21. Defendants deny paragraph 21.

22. Defendants deny paragraph 22.

23. Defendants deny paragraph 23

24. Defendants deny paragraph 24.

25. Defendants deny paragraph 25.

DEFENDANTS' FIRST AFFIRMATIVE DEFENSE

29. Plaintiff's claims are barred, in whole or in part, because the Complaint fails to state a cause of action for which relief can be granted.

DEFENDANTS' SECOND AFFIRMATIVE DEFENSE

30. Plaintiff's claims are barred, in whole or in part, to the extent that any injuries or losses sustained by Plaintiff were due to and caused by his own comparative fault to a degree greater than slight. SDCL 20-9-2.

DEFENDANTS' THIRD AFFIRMATIVE DEFENSE

31. Plaintiff's claims are barred, in whole or in part, to the extent that any injuries or losses sustained by Plaintiff were caused by an act or omission of a third party over which Defendants have no control.

DEFENDANTS' FOURTH AFFIRMATIVE DEFENSE

32. Plaintiff's claims are barred, in whole or in part, to the extent that any injury or damage suffered by Plaintiff, if any, was due to and caused by and was the direct and proximate result of an intervening cause.

DEFENDANTS' FIFTH AFFIRMATIVE DEFENSE

33. Plaintiff has failed to mitigate his damages, if any.

DEFENDANTS' SIXTH AFFIRMATIVE DEFENSE

34. Defendants reserve the right to amend this answer to add additional affirmative defenses as discovery progresses.

WHEREFORE, denying Plaintiff is entitled to any relief set forth in the WHEREFORE clause of the Complaint, and having fully responded to the allegations set forth in Plaintiff's Complaint, Defendants prays that Plaintiff recovers nothing; the Complaint be dismissed with prejudice; judgment be entered in favor of Defendants; and Defendants be awarded fees and costs and such other and further relief as the Court may deem just and proper.

Dated: 7/18/2023

s/ Earl G. Greene, III

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CERTIFICATE OF SERVICE

It is hereby certified that the above and foregoing document was electronically filed with the Court this 18th day of July 2023, which sent electronic notification of the filing to all counsel of record as properly addressed below:

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